

REMARKS

Claims 1-9, 19, 20, 22-24, 39, 40, 42-45, 47-49, 51, 53, 55, 56, 58-61 and 64-65 are now pending in the application upon admission of new claim 65. Claims 1, 6, 7, 19, 39, 40, 42, 44, 47, 49, 51, 53, 55, 56, 58, 59 60, 61 and 64 have been amended. Claims 10-18, 21, 25-38, 41, 46, 50, 52, 54, 57 and 62-63 have been canceled. New claim 65 has been added for substantive examination. Support for the claim amendments and new claim may be found in the application as originally filed. No new matter has been entered. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

EXAMINER INTERVIEW

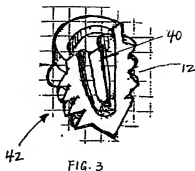
Applicants would like to thank Examiners Tyson and Ho for the courtesy extended to Applicants' representative, Brian Hollis, during a telephone interview on February 19, 2009. During this interview, Applicants' representative and the Examiners discussed U.S. Publication No. 2002/0052629 (Morgan) and U.S. Pat. No. 6,139,565 (Stone) in view of the pending claims of record. In one point of discussion, Applicants' representative discussed the suture engaging section of the instant suture anchor. Specifically, the suture anchor of the instant application includes a first eyelet and a second eyelet that are both formed as a completely surrounded bore in a proximal face of the suture engaging section. The suture engaging section is non-threaded and includes a suture passage that is defined entirely by the suture engaging section that interconnects the first and second eyelets. The cited art of record, including Morgan and Stone, alone or in combination, do not disclose such a suture anchor. Applicants have amended independent claims 1 and 19 to reflect these features as discussed

during the interview. Applicants' representative also discussed claim amendments to claim 47 that includes "an access to a portion of said suture passage extending through a sidewall of said suture engaging portion configured to allow access to said suture passage through said sidewall". Applicants' representative discussed this feature in combination with the other features set forth in claim 47. In sum, the claim amendments to claims 1, 19 and 47 reflect the Examiners' suggestions and discussion. The Examiners have agreed that these amendments define over the current art rejections. If it is determined that these amendments do not place all claims in condition for allowance, Applicants' representative invites Examiners Tyson and Ho to contact the undersigned via telephone in an effort to expedite prosecution.

REJECTION UNDER 35 U.S.C. §102

Claims 1-7, 19, 20, 22-24, 39, 40, 42, 43, 45-48, 51, 53-55 and 58-61 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. Pub. No. 2002/0052629 (Morgan). This rejection is respectfully traversed.

Applicants note that claim 1 has been amended to include a suture anchor having "a non-threaded suture engaging section extending from said bone engaging section... a first eyelet and a second eyelet both formed as a completely surrounded bore in a proximal face of said suture engaging section... and a suture passage defined entirely by said suture engaging section that interconnects said first and second eyelets". Claim 19 has been amended similarly. Applicants have reproduced Fig. 3 of Morgan immediately below for reference.

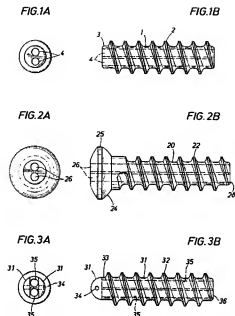


Morgan discloses a suture anchor having an elongated body 12 with threads formed along a substantial length thereof. A suture passage is defined in a U-shaped pattern within the elongated body 12. The suture passage extends along most of the entire length of the elongated body 12 and including through the threaded section of the suture anchor. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claims 1 and 19 and dependent claims therefrom.

With respect to independent claim 47, Applicants note that claim 47 has been amended to include "an access to a first portion of said suture passage extending through a sidewall of said suture engaging portion configured to allow access to said suture passage through said sidewall". Applicants submit that Morgan fails to teach such a suture anchor system. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claim 47 and dependent claims therefrom.

Claims 1, 2, 4, 5, 7, 9, 19, 20, 23, 24, 39, 40, 42, 44, 45, 47, 48, 51, 54, 55 and 58-60 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,584,836 (Ballintyn). This rejection is respectfully traversed.

Applicants have reproduced Figs. 1A-3B immediately below for reference.



Ballintyn discloses a cannulated interference screw having a body 1, a screw thread 2 extending along its outer surface, and a top-end 3. The cannulae 4 extend along the entire length of the screw body 1. The cannulae 4 are sized for receiving means for applying torque to the body. In one embodiment shown in Figs. 3A and 3B, a hole 34 is formed in a top projecting flange 31 for receiving a suture. The hole 34 is defined perpendicular to the bone engaging axis. Applicants submit that Ballintyn does not disclose "a first eyelet and a second eyelet both formed as a completely surrounded bore in a proximal face of said suture engaging section, said first and second eyelets allowing a selected portion of a suture to pass through and extend from said suture engaging section generally along said bone engaging axis; and a suture passage defined entirely by said suture engaging section that interconnects said first and second eyelets". Again, Applicants note that the hole 34 does not provide a first and second eyelet formed in a proximal face, nor does it provide a selected portion of suture to pass through and extend from said suture engaging section generally along said bone

engaging axis (the hole 34 is perpendicular to the bone engaging axis). Claim 19 has been amended similar to claim 1. Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claims 1 and 19 and dependent claims therefrom.

With respect to claim 47, Applicants submit that Ballintyn fails to provide "an access to a first portion of said suture passage extending through a sidewall of said suture engaging portion configured to allow access to said suture passage through said sidewall". Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claim 47 and dependent claims therefrom.

REJECTION UNDER 35 U.S.C. §103

Claim 64 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. Pub. No. 2002/0052629 (Morgan). This rejection is respectfully traversed.

Applicants note that claim 64 is dependent from claim 1 as discussed in detail above. For at least those reasons, Applicants submit that claim 64 is likewise in condition for allowance.

Claim 64 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,584,836 (Ballintyn). This rejection is respectfully traversed.

Applicants note that claim 64 is dependent from claim 1 as discussed in detail above. For at least those reasons, Applicants submit that claim 64 is likewise in condition for allowance.

Claims 6, 8, 22, 43, 46, 49, 50, 52, 53, 56, 57 and 61 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,584,836 (Ballintyn) as

applied to claims 1, 17 and 47 above and further in view of U.S. Pat. No. 6,139,565 (Stone). This rejection is respectfully traversed.

Applicants note that claims 46, 50, 52 and 57 have been canceled rendering this rejection moot as it pertains to those claims. Applicants further note that each of the remaining claims ultimately depend from either claim 1, 19 or 47 discussed in detail above. Applicants also note that claims 1 and 47 include "said suture engaging portion defining a diameter less than or equal to said maximum diameter along the length of the suture engaging portion". Claim 19 includes "said suture engaging section defining a radially outermost surface that is configured to be substantially disposed below an exterior surface of the selected anatomical portion after implantation". These claim features were specifically defined over Stone as discussed in the Examiner Interview on September 9, 2008 and subsequent response filed on September 23, 2008. Therefore, Applicants submit that the combination of Stone fails to cure the deficiencies of independent claims 1, 19 and 47 as discussed above in detail.

NEW CLAIM 65

Applicants have added new claim 65 for substantive examination. Support for claim 65 may be found in the application and drawings as originally filed, such as in at least Figs. 1-5. Applicants submit that the features of claim 65 provide additional novel features not taught by the collective art of record.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests

that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Dated: 19/MAR/09

Respectfully submitted,

By: 
Richard W. Warner
Registration No.: 38,043
Brian D. Hollis
Registration No.: 51,075
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1271
Attorneys for Applicant